



275789



"Meyer, Charles M" <CMM@santen-hughes.com> on 02/12/2001 01:53:58 PM

To: "Melodia.Craig@epamail.epa.gov"

Subject: RE: Skinner Landfill: Release of Information from the ADR

Thanks for your e-mail. I spoke with Karl Bourdeau at Beveridge & Diamond. He assured me that other parties had already disclosed the information you are seeking and that no one has had any objection. He said that the Work Group takes the position that the Case Management Order does not preclude a party from disclosing such information about itself, and that the Motion filed by the Chem-Dyne parties was probably not necessary. Therefore, I will assemble the information and forward it to you this week.

Charles M. Meyer
Santen & Hughes
(513) 852-5986

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-----Original Message-----

From: Melodia.Craig@epamail.epa.gov
[mailto:Melodia.Craig@epamail.epa.gov]
Sent: Friday, February 09, 2001 10:59 AM
To: cmm@santen-hughes.com
Subject: Skinner Landfill: Release of Information from the ADR

CONFIDENTIAL AND INADMISSIBLE
SETTLEMENT COMMUNICATION

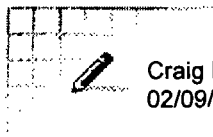
Hi Chuck,

I'm in receipt of your letter dated Feb. 5th, concerning the release of information and the confidentiality provisions of the CMO. As a follow-up to my previous e-mail concerning the release of the Allocator's findings to EPA, I wanted to address your question about the motion on behalf of the Chem-Dyne parties to release certain redacted information to EPA. I understand that Dustin Ordway, counsel for the Chem-Dyne parties, did file a motion with the court to release confidential ADR records which you state the court entered on Oct 7, 1999. I'm not aware of the reasons Dustin felt compelled to seek an order from the court to release the ADR records when the other parties were comfortable releasing redacted records pertaining to their own liability at the site. In the case of the Chem-Dyne parties, Dustin may have had special concerns about the records due to the unique nature of the liability case EPA developed against his clients. Dustin may also have been concerned about the interpretation other parties gave to the

CMO, and may have wanted the comfort of an order. In any event, as far as I know, Dustin was the only attorney that asked the court for permission to release the records, and as I previously mentioned the other parties that entered into the consent decree interpreted the CMO to permit them to release ADR records that relate to their own liability at the site with references to other parties redacted. I will agree to wait for the ADR records if you feel you need to file a motion with the court to release this information to EPA so long as it does not unreasonably delay our settlement discussions. In addition, you may want to speak with counsel for the parties that did release ADR records to EPA without seeking permission from the court to understand the basis for their reading of the CMO. Since EPA was not a party to the ADR I am not familiar enough with the CMO to offer my own reading of the confidentiality provision. I can provide you with names and phone numbers, including Dustin's number, if you'd like to speak with some attorneys that released the ADR records to EPA. I hope this helpful.

Thanks,

Craig



Craig Melodia
02/09/2001 09:28 AM

To: cmm@santen-hughes.com
cc:

Subject: Skinner Landfill: Release of Information from the ADR

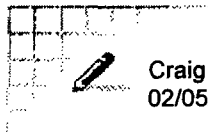
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Thanks,

Craig



Craig Melodia
02/05/2001 03:50 PM

To: cmm@santen-hughes.com
cc:

Subject: Skinner Landfill: Acme Wrecking

Dear Chuck,

Thanks for your voice mail message. I'm glad to hear that Acme is willing to release information and negotiate a settlement with EPA in order to avoid the time and expense of litigation. In regard to your concern about the release of information from the ADR proceeding conflicting with the confidentiality provisions of the CMO, all of the other parties which have entered into the remedial action consent decree, as well as several other parties that have not yet settled with EPA, but which are currently negotiating a second round settlement, have released redacted versions of the Allocator's Report. I understand from speaking with counsel for many of these parties, as well as counsel for the Work Group, that the CMO has been interpreted to allow each party to release those sections from the Allocator's Report pertaining to its own liability at the Site, with references to other parties redacted. EPA of course is not a party to the contribution lawsuit and did not participate in the mandatory ADR. For this reason, I cannot offer my own interpretation of the CMO, but would note that releasing this information is in keeping with the overall purpose of the ADR which is to foster settlement and avoid litigation. I have not heard from any of the attorneys representing clients at this Site that the release of information to EPA for settlement purposes has been challenged as a violation of the CMO. Karl Bordeaux, counsel for the Plaintiffs, is more familiar with these issues than I am and I would encourage you to speak with Karl if you have concerns about the CMO and the release of information to EPA.

Specifically, we are looking for those sections from the Preliminary and Final Allocator's Report detailing Acme's connection to the Site, as well as the Appendix in which Acme's total share of solid and liquid waste and its overall site share is listed. Please let me know if you have any questions or want to discuss this matter further.

Craig Melodia
Assistant Regional Counsel

(312) 353-8870 telephone
(312) 886-7160 fax